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Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Report of the Fifth Committee

Rapporteur: Mr. Haile Selassie **Getachew** (Ethiopia)

I. Introduction

1. At its 19th plenary meeting, on 20 September 2002, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-seventh session the item entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 26th, 27th and 37th meetings, on 18 and 21 November and on 13 December 2002. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/57/SR.26, 27 and 37).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the financial performance of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the period from 1 January to 31 December 2001 (A/57/367);

(b) First report of the Secretary-General on the performance of the International Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/57/480);

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(c) Note by the Secretary-General on the comprehensive report on the results of the implementation of the recommendations of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/56/853);

(d) Report of the Advisory Committee on Administrative and Budgetary Questions (A/57/593).

II. Consideration of draft resolution A/C.5/57/L.30

4. At the 37th meeting, on 13 December, the Committee had before it a draft resolution entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" (A/C.5/57/L.30), which was submitted by the Chairman on the basis of informal consultations coordinated by the representative of Norway.

5. At the same meeting, the Committee adopted draft resolution A/C.5/57/L.30, without a vote (see para. 6).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly,

Taking note of the reports of the Secretary-General on the performance of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2002-2003,[1] the financial performance of the International Tribunal for the Former Yugoslavia for the period from 1 January to 31 December 2001,[2] the results of the implementation of the recommendations of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda,[3] as well as the related report of the Advisory Committee on Administrative and Budgetary Question,[4]

[1] A/57/480.
[2] A/57/367.
[3] A/56/853.
[4] A/57/593.

Recalling its resolutions 56/247 A of 24 December 2001 and 56/247 B of 27 March 2002 on the financing of the International Tribunal for the Former Yugoslavia for the biennium 2002-2003,

1. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions;[4]

2. *Takes note* of the utilization of the commitment authority authorized in its resolution 55/225 B of 12 April 2001;

3. *Requests* the Secretary-General to prepare a comprehensive report on the progress made by the International Tribunal for the Former Yugoslavia in reforming its legal aid system, particularly with regard to rationalizing the costs of defence counsel and establishing indigence, for the main part of the fifty-eighth session of the General Assembly;

4. *Also requests* the Secretary-General to present the proposed budget for the International Tribunal for the Former Yugoslavia for the biennium 2004-2005 to the General Assembly at its fifty-eighth session in accordance with the following provisions:

(a) The budget should include detailed reference as to how the resources requested for the biennium will support the implementation of a sound and realistic completion strategy and the status of implementation of Board of Auditors recommendations, where relevant, with regard to specific items of proposed expenditure;

(b) The budget requirements for the Registry, the Office of the Prosecutor and the non-judicial, administrative functions of the Chambers should be presented in a results-based format linking objectives and inputs to expected accomplishments to be measured by indicators of achievement;

(c) Proposed allocations for costs for translation of documents and travel of witnesses should specify application and prior approval procedures by the Registrar to ensure they do not exceed demonstrated requirements;

(d) Proposals for defence costs should take into account experience to date in the revised lump-sum remuneration arrangements for defence counsel and the application of assessing contributions from defendants based on ability to pay and taking into account revised definitions of indigence and partial indigence;

(e) The proposed post structure for the biennium 2004-2005 should reflect reductions and shifts in requirements within the International Tribunal for the Former Yugoslavia owing to the expected completion of investigations by 2004 and, where appropriate, address any new requirements for established posts through redeployment;

5. *Concurs* with the recommendation of the Board of Auditors in paragraph 62 of its report,[5] and invites the judges of the International Tribunal for the Former Yugoslavia to give due consideration to implementing fully a system of designating defence counsel at random from a list of available lawyers established by the Registrar's office;

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[5] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 5L* (A/57/5/Add.12).

6. *Notes with concern* that the posts approved by the General Assembly in its resolutions 56/247 A and B for on-site audit and investigative services in the International Tribunal for the Former Yugoslavia have not been filled, and calls upon the Office of Internal Oversight Services to fill these positions without any further delay;

7. *Decides* that the financing for the unassessed expenditures incurred in 2001, in the amount of 413,600 United States dollars, shall be drawn from the unencumbered balance available in the Special Account for the International Tribunal for the Former Yugoslavia;

8. *Resolves* that, for the biennium 2002-2003, the amount of 248,926,200 dollars gross (223,169,800 dollars net), approved in its resolution 56/247 B for the budget of the International Tribunal for the Former Yugoslavia, shall be increased by 13,727,500 dollars gross (12,785,200 dollars net), for a total amount of 262,653,700 dollars gross (235,955,000 dollars net);

9. *Decides* that the increases resulting from the recosting and the establishment of one additional trial team, in the amount of 13,727,500 dollars gross (12,785,200 dollars net), shall be drawn from the unencumbered balance available in the Special Account for the International Tribunal for the Former Yugoslavia as of 31 December 2001;

10. *Decides also* to apportion for 2003 the amount of 64,275,950 dollars gross (58,066,375 dollars net), including 6,863,750 dollars gross (6,392,600 dollars net), being the increase in assessments, among Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2003 as set out in its resolutions 55/5 B of 23 December 2000 and 57/__ of __ _____ 2002;

11. *Decides further* to apportion for 2003 the amount of 64,275,950 dollars gross (58,066,375 dollars net), including 6,863,750 dollars gross (6,392,600 dollars net), being the increase in assessments, among Member States in accordance with the rates of assessment applicable to peacekeeping operations for 2003;

12. *Decides* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 10 and 11 above, their respective share in the Tax Equalization Fund in the amount of 26,763,400 dollars, including the amount of 1,007,000 dollars, being the increase in the estimated staff assessment income approved for the International Tribunal for the Former Yugoslavia for the biennium 2002-2003.

Annex

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

	Gross	*Net*
	(United States dollars)	
1. Appropriation for the biennium 2002-2003 (resolution 56/24 / B)	248 926 200	223 169 800
Add:		
2. Proposed changes for the biennium 2002-2003 (revised parameters/standards and requirements for 2 additional trial teams)	14 060 300	13 053 300
Less:		
3. Recommendations of the Advisory Committee on Administrative and Budgetary Questions on the additional trial teams[a] (establishment of only one additional trial team)	(332 800)	(268 100)
4. Proposed revised appropriation for the biennium 2002-2003 (1+2–3)	262 653 700	235 955 000
Add:		
5. Unassessed expenditures in 2001[b]	413 600	-
6. Total amount to be financed (4+5)	263 067 300	235 955 000
Less:		
7. Amount to be financed from the unencumbered balance as of 31 December 2001[c] ((2-3)+5)	(14 141 100)	(12 785 200)
8. Balance to be assessed for the biennium 2002-2003 (6-7)	248 926 200	223 169 800
Less:		
9. Assessment for 2002	(120 374 300)	(107 037 050)
10. Balance to be assessed for 2003,	128 551 900	116 132 750
Of which:		
11. Contributions assessed on Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2003	64 275 950	58 066 375
12. Contributions assessed on Member States in accordance with the scale of assessments applicable to peacekeeping operations for 2003	64 275 950	58 066 375

[a] See A/57/593.

[b] See A/57/367.

[c] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 5L* (A/57/5/Add.12), chap. V, statement II.